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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,969	10/10/2006	Junya Ohde	286085US6PCT	8866

  

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EXAMINER	
HUERTA, ALEXANDER Q	

  

ART UNIT	PAPER NUMBER
2427	

  

NOTIFICATION DATE	DELIVERY MODE
04/09/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<p><b>Application No.</b> 10/568,969</p>	<p><b>Applicant(s)</b> OHDE ET AL.</p>	
	<p><b>Examiner</b> Alexander Q. Huerta</p>	<p><b>Art Unit</b> 2427</p>	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 25 March 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: \_\_\_\_\_.
- Claim(s) objected to: \_\_\_\_\_.
- Claim(s) rejected: 22,24-32, 34-41,43-47.
- Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_
13. ☐ Other: \_\_\_\_\_.

/Scott Beliveau/  
Supervisory Patent Examiner, Art Unit 2427

Continuation of 3. NOTE: Applicant's proposed amendments do not merely cancel claims, adopt examiner suggestions, remove issue for appeal, or in some other way require only a cursory review by the examiner. In particular, the newly added limitation of claims 44 and 46 "wherein the attributes includes at least a genre and a performer." Accordingly, further search and/or consideration is required on the part of the examiner.

Continuation of 11. does NOT place the application in condition for allowance because: On page 12 of the Applicant's Response, Applicants argue that Banker is not a prior art reference date-wise since Banker was filed on October 17, 2007 because the instant application claims priority to JP 2003-303915, filed August 28, 2003.

The Examiner agrees that Banker Appl. No. 11/873,582 was filed on October 17, 2007, however the Examiner disagrees that Banker is not a prior art reference. Banker is a continuation of application 09/693,606 filed on October 20, 2000, now Pat. 7,290,274, therefore Banker is entitled to the US file date of the parent application. Furthermore, the cited portions of Banker are supported in the parent application 09/693,606 in Col. 10 lines 15-27 and Fig. 10, thus Banker qualifies as prior art.

On pages 12-13 of the Applicant's Response, Applicant argues that the Office Action and Banker are silent as to why one with ordinary skill in the art at the time of invention would modify Schlack to include the features of aggregating a log of purchase of content with a log of a viewing content into a viewing log to acquire attribute-values for attributes of each content. However, the Banker reference was not relied upon to teach attribute values but merely a log of purchase.

The Schlack reference teaches a viewer profile 293 (i.e. viewer log) that monitors the interactivity of the viewers. The information is then presented to the viewer in a listing that displays most view genres, television networks, programs, etc. ([0071], [0127], [0135], [0160]-[0168], Figs. 16, 20, 24), however failed to disclose log of purchase.

Banker discloses a log of purchase (Fig. 10). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of displaying a purchase log of other content as taught by Banker, to improve the profiling system of Schlack for the predictable result of enabling the users to review charges associated with VOD titles to decide if their spending was reasonable or excessive.

The combination still fails to disclose attribute values for each attribute in the viewing log, measuring the number of appearances of the attributes, and ranking the attribute values.

Mori teaches displaying a viewing log with multiple that genres are displayed and ranked according to the number times they were viewed ([0236], Fig. 27). Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of including attribute values for each attribute of content in the viewing log and also ranking attribute-values as taught by Mori, to improve the profiling system of Schlack for the predictable result of determining users favorite genre based on their program selections.